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APR 17 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of: Herrmann

Serial No.: 10/626,041

Group No.: 3632

Filed: July 24, 2003

Examiner: R. Ramirez

For: SPRAY BOTTLE HANGER

APPELLANT'S REPLY BRIEFMail Stop Appeal Brief
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Examiner's Answer mailed February 16, 2006, Appellant requests that the following remarks be considered by the Examiner:

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With respect to the Examiner's response to "argument" section on page 5 of the Answer, the Examiner argues that "[Schuler] is capable of performing the intended use . . ." Appellant disagrees. Note that the angle Alpha in Figure 1 of the '578 patent is greater than 90 degrees. Thus, even if the lower portion (20) of Schuler were misconstrued to define an aperture, and even if the upper portion 18 were misconstrued to be a "bent lip," the structure is not capable of performing the intended function, since it would slip off of any surface from which the device is hung. Appellant further disagrees that Appellant's use of "configured" merely conveys intended use, since "configured" also conveys structural limitations insofar as the article is *physically configured*.

With regard to claim 5, the Examiner advances the new argument that the "upper lip" of Schuler provides a friction [sic] force since any surface provides friction unless being made of anti-friction material. Apart from being convoluted, this argument is backwards. Appellant's claim includes a surface or a feature to *enhance* friction or holding capability. This is not the same as simply relying on an existing material. In any case, given the angle Alpha in the Schuler article, hanging capability is defeated.

Based on the foregoing comments, Appellant believes all pending claims continue to be in condition for allowance and Appellant seeks the Board's concurrence at this time.

Respectfully submitted,

Date: April 17, 2006

By: 

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